

UNITED STATES COURT OF APPEALS

**APR 17 2003**

FOR THE NINTH CIRCUIT

**CATHY A. CATTERSON**

**U.S. COURT OF APPEALS**

VONS COMPANIES INC., a Michigan  
Corporation,

Plaintiff - Appellant,

v.

AETNA CASUALTY & SURETY  
COMPANY, a Connecticut Corporation;  
TRAVELERS CASUALTY AND SURETY  
COMPANY, FORMERLY KNOWN AS  
AETNA CASUALTY AND SURETY  
COMPANY,

Defendants - Appellees.

No. 01-56791

D.C. No. CV-00-11672-GHK  
Central District of California,  
Los Angeles

ORDER

Before: REINHARDT, O'SCANNLAIN and PAEZ, Circuit Judges.

The memorandum filed January 28, 2003, is hereby ordered amended as follows:

Page 9: Replace "Foodmaker's act of cooking" on line 4 through "exclusion applies" on line 9 with the following:

Foodmaker's "sudden and accidental" act of undercooking the patties occurred *after* the product was put to use by another. Vons suggests that the undercooking caused a further injury to the patties because prior to undercooking the patties were,

although contaminated, not yet in a state in which they were likely to be eaten.

Page 9, line 12: Replace “that proposition” with “Vons’ argument.”

Except as herein modified, the panel has voted unanimously to deny the petition for rehearing.

The petition for rehearing is DENIED.

The mandate shall issue forthwith.